

# LEGISLATIVE CONCEPT PAPER

**DECEMBER 16, 2003**

**“CALIFORNIA STATE WATERSHED HEALTH INITIATIVE”**

**STATEMENT OF PROBLEM**

CALIFORNIA'S PRIVATELY OWNED URBANIZING NATIVE FORESTS AND WATERSHEDS HAVE BEEN PROTECTED RATHER THAN MANAGED. THIS HAS CREATED UNHEALTHY FORESTS AND WATERSHEDS SUSCEPTIBLE TO DESTRUCTIVE FIRES, INSECT INFESTATIONS AND DISEASES. THE STATE'S PRIVATELY OWNED FORESTS ARE LARGELY OVERSTOCKED AND SUBJECT TO STRESS RESULTING FROM THE TYPICAL DROUGHT CYCLES ASSOCIATED WITH A MEDITERRANEAN CLIMATE. COMBINED WITH THE ADDITIONAL IMPACTS OF URBAN DEVELOPMENT, THE HEALTH OF OUR STATE'S PRIVATELY OWNED FORESTS AND WATERSHEDS IS RAPIDLY DETERIORATING AND THREATENS THE FUTURE EXISTENCE OF COMMUNITIES, LOCAL NATURAL RESOURCES, WATER QUALITY AND THE ECONOMY OF THE STATE OF CALIFORNIA.

## PROPOSED SOLUTION

BASED UPON VALUES AT RISK AND LIABILITIES, CAUSED BY UNMANAGED FORESTS AND WATERSHEDS, ENFORCEABLE REGULATORY STANDARDS WHICH RECOGNIZE STANDARDS FOR THE PROMOTION OF A HEALTHY FIRE RESISTANT FOREST AND WATERSHEDS ARE NEEDED. THIS PROPOSAL FOCUSES ON THE RELATIONSHIPS BETWEEN THE NUMBER TREES PER ACRE, FOREST LAND PRODUCTIVITY AND THE REDUCTION OF LADDER FUELS WHICH PROMOTE FOREST FIRES AND THE IMPACTS OF DEVELOPMENT IN WATERSHEDS.

THE UNIFORM FIRE (UFC) AND THE UNIFORM BUILDING CODES (UBC) PROVIDE MINIMUM FIRE SAFE STANDARDS FOR NEW CONSTRUCTION. THE PUBLIC RESOURCES CODE (PRC) CONTAINS LANGUAGE FOR SUCH MINIMUM BUILDING STANDARDS AS ROAD WIDTHS, TURNING RADII, WATER FLOW, AND ADDRESSING. ADDITIONALLY THE PRC AND LOCAL WEED ABATEMENT ORDINANCES ESTABLISH MINIMUM RESIDENTIAL WEED CLEARANCE STANDARDS. THESE STANDARDS HAVE BEEN CREATED TO PROTECT LIFE AND PROPERTY.

THIS PROPOSAL IS INTENDED TO CREATE LANGUAGE WITHIN THE PUBLIC RESOURCES CODE WHICH WOULD ACKNOWLEDGE THAT UNMANAGED PRIVATE FOREST LANDS THAT EXCEED SPECIFIC STOCKING OR TREE NUMBERS PER ACRE (DENSITY) AND SITE PRODUCTIVITY CLASSIFICATION ARE A PUBLIC NUISANCE. AS A PUBLIC NUISANCE LAND OWNERS WOULD BE REQUIRED TO ABATE OR MANAGE SAID LANDS, OR THE STATE WOULD IMPOSE FINES OR TAKE ACTION TO REMEDY THE NUISANCE AT COST TO THE LANDOWNER. UNMANAGED FORESTS ARE INCREASINGLY SUSCEPTIBLE TO DESTRUCTIVE FIRES, INSECT INFESTATIONS AND FOREST DISEASES WHICH ARE REMEDIED AT GREAT COST BY ALL CALIFORNIA RESIDENTS.

COMPLIANCE WITH THIS NEW REGULATION WOULD REQUIRE, RATHER THAN PERSUADE, FOREST LANDOWNERS TO MEET MINIMUM AND MAXIMUM FOREST STOCKING OR TREE NUMBERS PER ACRE STANDARDS. THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION WOULD BE CHARGED WITH ENFORCEMENT OF THIS REGULATION AND ITS STANDARDS. INSPECTION OF ALL UNINCORPORATED FOREST LAND PARCELS WOULD OCCUR EVERY 5 YEARS

THIS PROPOSAL IS ALSO INTENDED TO CREATE LANGUAGE WITHIN THE PUBLIC RESOURCES CODE WHICH WOULD SET MINIMUM STANDARDS FOR DEVELOPMENT WITHIN WATERSHED LANDS, INCLUDING THOSE CONTAINED WHOLLY OR IN PART WITHIN INCORPORATED CITY LIMITS, WHICH WOULD ENSURE THE VITALITY, HEALTH AND FUNCTIONALITY OF THOSE LANDS AS WATERSHEDS. FUNDING FOR TREE REMOVAL MATCHING GRANTS WOULD BE AVAILABLE ONLY TO CITIES AND COUNTIES THAT AGREE TO ADOPT ORDINANCES, ZONING AND BUILDING CODES AND PLANNING POLICIES THAT ENSURE FIRE WISE CONSTRUCTION.

HOUSING, COMMERCIAL AND RETAIL DEVELOPMENT MAY BE LIMITED BASED ON CRITERIA SUCH AS DEGREE OF SLOPE, VULNERABILITY TO LOSS FROM WILDLAND FIRE, WATER QUALITY AND DRAINAGE IMPACTS AS WELL AS OTHER NEGATIVE IMPACTS ON WATERSHED FUNCTIONS. PAVING LIMITATIONS OR PERMEABLE PAVING ALTERNATIVES COULD ALSO BE REQUIRED TO ENSURE THAT ADEQUATE WATERSHED FUNCTION WILL BE MAINTAINED AND THAT STORMWATER, DEBRIS AND FLOODING WILL BE MINIMIZED.

## CONSEQUENCE OF INACTION

INACTION WILL SEE THE CONTINUED BUILD-UP OF UNMANAGED FOREST FUELS IN STATE RESPONSIBILITY AREA FORESTS AND WATERSHEDS THROUGHOUT THE STATE. THE RESULT WILL BE THE PERPETUATION OF OVERSTOCKED, STRESSED FORESTS AND WATERSHEDS THAT ARE SUSCEPTIBLE TO DESTRUCTIVE AND INCREASINGLY EXPENSIVE WILDFIRES, INSECT INFESTATIONS, AND DISEASES, WHICH AFFECT PUBLIC SAFETY AND WATERSHED RESOURCE VALUES. THE LACK OF MINIMAL STATE WIDE DEVELOPMENT STANDARDS IN WATERSHEDS HAVE ALLOWED CITIES AND COUNTIES TO APPROVE DEVELOPMENT IN AREAS OF THE STATE WITHOUT ADEQUATE PROTECTION OF WATERSHEDS INCREASING COSTS FOR FIREFIGHTING AND SIGNIFICANT IMPACTS TO THE STATE'S WATER QUALITY AND SUPPLY. THE FISCAL IMPACT OF THESE DECISIONS IS BORNE BY TAXPAYERS STATEWIDE.



## ALTERNATIVE

CDF AND ITS COOPERATORS HISTORICALLY HAVE PURSUED PUBLIC EDUCATION EFFORTS TO ACHIEVE PUBLIC SUPPORT FOR FOREST MANAGEMENT ON PRIVATE FOREST LANDS OF ALL SIZES. THESE EFFORTS HAVE HAD LIMITED SUCCESS. THE CONTINUED URBANIZATION OF CALIFORNIA FOREST LAND AND WATERSHEDS REQUIRES IMMEDIATE ACTION. THERE ARE NO OTHER METHODS TO ADDRESS THIS EXPANDING PROBLEM AND ITS IMPACTS ON SRA WATERSHEDS. LEGISLATION IS REQUIRED. EDUCATION AND REGULATORY ENFORCEMENT PROVIDED BY CDF AND ITS COOPERATORS IS REQUIRED TO AFFECT LONG TERM CHANGE AND REDUCE THE COST OF THE CONSEQUENCES OF IMPERILED FORESTS AND CATASTROPHIC FIRE.

ENSURING THE HEALTH AND VITALITY OF CALIFORNIA'S FORESTS AND WATERSHEDS WILL RESULT IN MORE NATURAL AND FIRE RESISTIVE FORESTS AND WATERSHEDS. APPROPRIATE LAND MANAGEMENT AND BUILDING STANDARDS WILL REDUCE HUMAN AND PROPERTY LOSS TO WILDFIRE WITH RESULTANT SAVINGS IN THE COST OF FIGHTING WILDFIRES.

## OTHERS AFFECTED

CITIES AND COUNTIES, PLANNING AGENCIES, CODE ENFORCEMENT AND LOCAL FIRE PROTECTION AGENCIES, WATER AGENCIES AND DISTRICTS AND WATERSHED GROUPS AND AUTHORITIES.

## HISTORY

OUR NATIONAL AND STATE FIRE POLICIES WERE LARGELY ESTABLISHED FOLLOWING THE LARGE LIFE AND PROPERTY LOSS FIRES THAT OCCURRED IN THE LATE 1800'S TO 1910. THESE POLICIES ESTABLISHED THE GOAL OF SUPPRESSING ALL WILDFIRES AT TEN ACRES OR LESS. THIS HAS RESULTED IN THE EXCLUSION OF THE BENEFICIAL EFFECTS OF WILDFIRE IN FORESTS AND WATERSHEDS CONTRIBUTING TO THE OVERSTOCKING OF THESE LANDS AND THEIR SUSCEPTIBILITY TO DROUGHT IMPACTS. ADDITIONALLY, LAND MANAGEMENT AND PLANNING DECISIONS IN THESE LANDS HAVE BEEN MADE BY LOCAL GOVERNMENT WITHOUT ADEQUATE CONSIDERATION OF THE IMPACTS ON WATERSHED FUNCTIONS. "THE STATE, AS A QUASI SOVEREIGN, HAS A RIGHT TO PROTECT A WATERWAY FROM THE IMPACTS OF PRIVATE PROPERTY OWNERS." OLIVER WENDELL HOLMES. LAND USE DECISIONS IN WATERSHEDS, BY LOCAL GOVERNMENTS, HAVE NEGATIVELY IMPACTED THE CITIZENS OF CALIFORNIA LIVING OUTSIDE THE LOCAL GOVERNMENT'S JURISDICTION. THOSE IMPACTS HAVE BEEN REDUCED WATER QUALITY AND SUPPLY, SOIL EROSION, FLOODING AND THE INCREASED COSTS OF WILDLAND FIRE SUPPRESSION.

## FISCAL AND ECONOMIC IMPACTS

THE COSTS OF WILDLAND FIRE SUPPRESSION HAVE BEEN INCREASING IN CALIFORNIA ON AN ANNUAL BASIS DRIVEN LARGELY BY THE INCREASED EFFORTS REQUIRED TO PROTECT LIVES AND PROPERTY AS DEVELOPMENT HAS ENCROACHED INTO THE WILDLAND AREAS OF THE STATE. OTHER FIRE IMPACT COSTS, WHICH HAVE NOT BEEN CALCULATED ON A STATEWIDE BASIS, INCLUDE AMONG OTHERS AVAILABILITY AND COST OF PROPERTY INSURANCE, FLOOD CONTROL IMPACTS, WATER QUALITY AND WATER SUPPLY AS WELL AS SPECIES HABITAT AND RE-FORESTATION. FOR EXAMPLE FOLLOWING THE 2003 FIRES IN SAN BERNARDINO COUNTY WATER AGENCIES DETERMINED THAT:

- TOTAL RUNOFF IS LIKELY TO INCREASE BY MORE THAN 10% AND PEAK STORM FLOWS WILL INCREASE ABOUT 5 TIMES NORMAL.
- SEDIMENT LOADS CARRIED DOWN STREAM COULD BE 30 TO 50 TIMES NORMAL. THIS MAY TAKE YEARS TO REMOVE.
- FLOOD CONTROL BASINS WILL LIKELY BE BREACHED AND AREAS WITHOUT FLOOD CONTROL BASINS MAY HAVE CATASTROPHIC FLOOD AND DEBRIS DAMAGE.
- LONG DURATION INCREASES IN WATER TURBIDITY INCLUDING FINE SEDIMENT MAY BE CARRIED FAR DOWN STREAM COMPLICATING GROUNDWATER DISCHARGE.
- A 2-10 FOLD INCREASE IN TOTAL DISSOLVED SOLIDS (TDS) OR SALTS WITH INCREASED FLOWS COULD RESULT IN AS MUCH AS 500,000 TONS OF ADDED SALT IN THE SANTA ANA RIVER AND GROUNDWATER BASINS. THE RUNOFF WATER IS NEEDED FOR RECHARGE OR CONSUMPTIVE USE, SIGNIFICANT TREATMENT REQUIREMENTS TO REMOVE OR MITIGATE THIS TDS.
- 20,000 TONS OF NITRATES AND PHOSPHOROUS FORMERLY BOUND IN SOIL AND FROM AIRBORNE DEPOSITION WILL BE RELEASED INTO THE PEAK STORM FLOWS AND MAKE ITS WAY INTO GROUNDWATER.
- THERE WILL BE SIGNIFICANT TRANSPORT OF URANIUM AND ITS RADIOLOGICAL PROGENY DOWNSTREAM IN SURFACE GROUNDWATER INCREASING THE COST OF RADON AND URANIUM TREATMENT AND FUTURE MONITORING.

- INCREASES IN ORGANIC COMPOUNDS, INCLUDING TOXIC AND CARCINOGENIC COMPOUNDS FROM PARTIAL COMBUSTION OF FOREST MATERIALS WILL DECREASE USABILITY OF 70% OF THE SANTA ANA REGION'S PRIMARY WATER SOURCE.
- SEDIMENTATION OF THE LANDS USED BY THE SAN BERNARDINO KANGAROO RAT AND THE SANTA ANA WOOLY STAR FISH WILL CAUSE CHOKING TURBIDITY REDUCING THE USEABLE HABITAT FOR THE SANTA ANA SUCKER FISH.
- ESTIMATED COSTS TO MITIGATE THE FIRE EFFECTS IN THE SANTA ANA WATERSHED RANGE FROM \$500,000,000 TO \$800,000,000.

